IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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MONDAY, THE TWENTY SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.3671 OF 2006

Between**:**

M. BhaskaraRao … Petitioner

Versus

The Commissioner,

Municipal Corporation of Kakinada,

Kakinada, East Godavari district. … Respondent

Counsel for the Petitioner: M/s. MVS. Suresh Kumar

Counsel for the Respondent: Mr.S.Nageswara Reddy

O R D E R :

The petitioner is the alleged owner of house bearing Municipal No.54-1-4, situated at Main Road, Jagannaickpur, Kakinada, Eat Godavari district. It appears in connection with widening of the said road from existing 25' to 50' width, the officials of the respondent – Corporation conducted survey and marked certain portion/s of the petitioner's premises, which is likely to be affected by the road widening. The petitioner apprehends that the respondent Corporation may demolish and forcibly dispossess the petitioner without due process of law. Therefore, placing reliance on the judgment of the Division Bench of this Court in **P.Lakshmana Rao v. Executive Officer** and unreported judgments delivered in W.P.No.26547 of 2005, dated 13.12.2005 and WP.No.358 of 2005 dated 05-1-2006 the petitioner filed the instant writ petition. He seek, inter alia, a direction to the respondent to follow due process of law before causing any damage to his aforesaid house.

After getting instructions from his client, the learned Standing Counsel for Kakinada Municipal Corporation submits that only survey was conducted, and the Corporation

is trying to negotiate with the owners of the properties to take consent before implementing the road widening programme. He also submits that if the petitioner is not willing to give consent, the land will be acquired by due process of law. The same is recorded.

The Writ Petition is accordingly disposed of observing that if the petitioner is not willing to give consent for acquiring his premises under section 146 of Hyderabad Municipal Corporation Act, it shall be open to the respondent Corporation to acquire the same by resorting to the procedure under Section 147 of the Hyderabad Municipal Corporations Act, 1955, and till then, the petitioner cannot be deprived of his right to enjoy the said premises, nor the Corporation can demolish the petitioner's house forcibly. No costs.

FEBRUARY 27th, 2005. ----------

l s L. V. ESWARAIAH, J.